

TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. 371

P-UC 5042

U.S. APPLICATION NO. (If known, see 37 CFR 1.5

10/009,317

INTERNATIONAL APPLICATION NO.  
PCT/US00/12842INTERNATIONAL FILING DATE  
May 10, 2000PRIORITY DATE CLAIMED  
May 10, 1999

## TITLE OF INVENTION

ANTIMICROBIAL THETA DEFENSINS AND METHODS OF USING SAME

APPLICANT(S) FOR DO/EO/US  
SELSTED ET AL.

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

1. ☐ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☒ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☐ The US has been elected by the expiration of 19 months from the priority date (Article 31).
5. ☐ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
  - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ has been communicated by the International Bureau.
  - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application as filed (35 U.S.C. 371(c)(2)).
  - a. ☐ is attached hereto.
  - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3))
  - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ have been communicated by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371 (c)(3)).
9. ☒ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes of the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

## Items 11 to 20 below concern document(s) or information included:

11. ☐ An Information Disclosure Statement under 37 CFR 1.97 and 1.98.
12. ☒ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A **FIRST** preliminary amendment.
14. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
15. ☐ A substitute specification.
16. ☐ A change of power of attorney and/or address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825.
18. ☐ A second copy of the published international application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☒ Other items or information: Statement Under 37 C.F.R. section 3.73(b); Power of Attorney by Assignee and Exclusion of Inventor(s) Under 37 C.F.R. 3.71; and Small Entity Statement

**This letter is being filed in response to the Notification of Missing Requirements Under 35 USC 371 in the United States Designated/Elected Office (DO/EO/US)**

U.S. APPLICATION NO. (if known, see 37 CFR 1.53)  
10/009,317

INTERNATIONAL APPLICATION NO.  
PCT/US00/12842

ATTORNEY'S DOCKET NUMBER  
P-UC 5042

21. ☒ The following fees are submitted:

**BASIC NATIONAL FEE (37 CFR 1.492 (a) (1) - (5)):**

Neither international preliminary examination fee (37 CFR 1.482)  
nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO  
and International Search Report not prepared by the EPO or JPO ..... **\$1040.00**

International preliminary examination fee (37 CFR 1.482) not paid to  
USPTO but International Search Report prepared by the EPO or JPO ..... **\$890.00**

International preliminary examination fee (37 CFR 1.482) not paid to USPTO  
but international search fee (37 CFR 1.445(a)(2)) paid to USPTO ..... **\$740.00**

International preliminary examination fee (37 CFR 1.482) paid to USPTO  
but all claims did not satisfy provisions of PCT Article 33(1)-(4) ..... **\$710.00**

International preliminary examination fee (37 CFR 1.482) paid to USPTO  
and all claims satisfied provisions of PCT Article 33(1)-(4) ..... **\$100.00**

**ENTER APPROPRIATE BASIC FEE AMOUNT =**

**CALCULATIONS PTO USE ONLY**

\$  
\$130

Surcharge of **\$130.00** for furnishing the oath or declaration later than ☐ 20 ☒ 30  
months from the earliest claimed priority date (37 CFR 1.492(e)).

CLAIMS	NUMBER FILED	NUMBER EXTRA	RATE	\$
Total claims	- 20 =		x <b>\$18.00</b>	\$
Independent claims	- 3 =		x <b>\$84.00</b>	\$
MULTIPLE DEPENDENT CLAIM(S) (if applicable)			+ <b>\$280.00</b>	\$

**TOTAL OF ABOVE CALCULATIONS = \$130**

☒ Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above  
are reduced by 1/2. + \$65

**SUBTOTAL = \$65**

Processing fee of **\$130.00** for furnishing the English translation later than ☐ 20 ☐ 30  
months from the earliest claimed priority date (37 CFR 1.492(f)). \$

**TOTAL NATIONAL FEE = \$65**

Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be  
accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). **\$40.00** per property + \$40

**TOTAL FEES ENCLOSED = \$105**

65.00 DP	Amount to be refunded:	\$
	charged:	\$

- a. ☒ A check in the amount of \$ 105.00 to cover the above fees is enclosed.
- b. ☐ Please charge my Deposit Account No. \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ to cover the above fees.  
A duplicate copy of this sheet is enclosed.
- c. ☒ The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any  
overpayment to Deposit Account No. 03-0370. A duplicate copy of this sheet is enclosed.
- d. ☐ Fees are to be charged to a credit card. **WARNING:** Information on this form may become public. **Credit card  
information should not be included on this form.** Provide credit card information and authorization on PTO-2038.

**NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137 (a) or (b)) must be filed and granted to restore the application to pending status.**

SEND ALL CORRESPONDENCE TO:

CAMPBELL & FLORES LLP  
4370 La Jolla Village Drive, 7th Floor  
San Diego, California 92122

  
SIGNATURE

Deborah L. Cadena

NAME

44,048

REGISTRATION NUMBER

05/22/2002

01 FC:254

COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

 Commissioner for Patents, Box PCT  
 United States Patent and Trademark Office  
 Washington, D.C., 20231  
 www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/009,317	Michael E Selsted	P-UC 5042

 23601  
 CAMPBELL & FLORES LLP  
 4370 LA JOLLA VILLAGE DRIVE  
 7TH FLOOR  
 SAN DIEGO, CA 92122
**DOCKETED**
*Resp. due*  
*5-15-02*

INTERNATIONAL APPLICATION NO.

PCT/US00/12842

I.A. FILING DATE

PRIORITY DATE

05/10/2000

CONFIRMATION NO. 6942

371 FORMALITIES LETTER



\*OC000000007633019\*

Date Mailed: 03/15/2002

### NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)

The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as an Elected Office (37 CFR 1.495):

- U.S. Basic National Fees
- Biochemical Sequence Listing
- Copy of references cited in ISR
- Copy of the International Application
- Copy of the International Search Report

The following items **MUST** be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

- Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

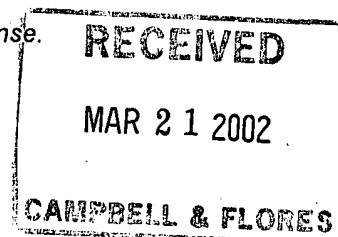
**ALL OF THE ITEMS SET FORTH ABOVE MUST BE SUBMITTED WITHIN TWO (2) MONTH FROM THE DATE OF THIS NOTICE OR BY 22 or 32 MONTHS (where 37 CFR 1.495 applies) FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.**

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

A copy of this notice **MUST** be returned with the response.

MAMIE P PERSON



Telephone: (703) 305-3737

PART 1 - ATTORNEY/APPLICANT COPY

U.S. APPLICATION NUMBER NO.	INTERNATIONAL APPLICATION NO.	ATTY. DOCKET NO.
10/009,317	PCT/US00/12842	P-UC 5042

FORM PCT/DO/EO/905 (371 Formalities Notice)

A copy of the Notification of  
Missing Requirements Under 35  
U.S.C. 371 in the United States  
Designated/Elected Office  
(DO/EO/US)  
Attorney Docket No.: P-UC 5042  
Serial No.: 10/009,317

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

"EXPRESS MAIL" MAILING LABEL NUMBER: EV 065746508 US

DATE OF DEPOSIT: May 15, 2002

I HEREBY CERTIFY THAT THIS PAPER OR FEE IS BEING DEPOSITED WITH  
THE UNITED STATES POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO  
ADDRESSEE" SERVICE UNDER 37 CFR 1.10 ON THE DATE INDICATED ABOVE  
AND IS ADDRESSED TO COMMISSIONER FOR PATENTS, WASHINGTON, D.C.  
20231.

Karly Tambara

Printed Name of Person Mailing Paper or Fee

Jk Tambara

Signature of Person Mailing Paper or Fee

**STATEMENT UNDER 37 C.F.R. § 3.73(b)**

Title of Application: ANTIMICROBIAL THETA DEFENSINS AND  
METHODS OF USING SAME

International Patent Application No.: PCT/US00/12842  
International Filing Date: 10 May 2000

Claiming priority to prior United States Application  
Serial No.: 09/309,487  
Filing (priority) date: 10 May 1999

Entry into U.S. national stage as Serial No. 10/009,317  
U.S. National Stage entry date: 9 November 2001  
U.S. Applicants/Inventors: Michael E. Selsted; Yi-Quan Tang;  
Jun Yuan; and Andre J. Ouellette

Attorney Docket No.: P-UC 5042

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The Regents of the University of California, a California Corporation, states that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of an assignment from the inventors of the application. A copy of the executed assignment, submitted for recording, is attached hereto as documentary evidence of the chain of title to the assignee.

The undersigned is empowered to sign this statement on behalf of the assignee.

Signature: Linda S. Stevenson

Date: March 26, 2002

Name: Linda S. Stevenson

Title: Manager, Patent Prosecution

The Regents of the University of California  
1111 Franklin Street, 12<sup>th</sup> Floor  
Oakland, California 94607-5200

PTO/PCT Rec'd 15 MAY 2002

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Title of Application: ANTIMICROBIAL THETA DEFENSINS AND  
METHODS OF USING SAME

International Patent Application No.: PCT/US00/12842  
International Filing Date: 10 May 2000

Claiming priority to prior United States Application  
Serial No.: 09/309,487  
Filing (priority) date: 10 May 1999

Entry into U.S. national stage as Serial No. 10/009,317  
U.S. National Stage entry date: 9 November 2001  
U.S. Applicants/Inventors: Michael E. Selsted; Yi-Quan Tang;  
Jun Yuan; and Andre J. Ouellette

Attorney Docket No.: P-UC 5042

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Commissioner for Patents  
Washington, D.C. 20231

Sir:

**SMALL ENTITY STATEMENT**

The U.S. Patent and Trademark (USPTO) permits parties that establish status as a Small Entity to pay certain reduced fees (all citations to 37 C.F.R. § 1.27 except as noted). To be entitled to Small Entity Status, a party must be at least one of the following:

**(1) Individual person:**

An individual person, including an inventor and persons to whom an inventor has transferred some rights in the invention. § 1.27(a)(1).

**(2) Small business concern:**

A business concern whose number of employees, including affiliates, does not exceed 500 persons. § 1.27(a)(2) (incorporating 13 C.F.R. § 121.802).

Inventors: Selsted et al.  
Serial No.: 10/009,317  
Filed: 9 November 2001  
International Filing Date: 10 May 2000  
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"Business concern" means individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative. If the concern is a joint venture, participation by foreign business entities may not be more than 49%. 13 C.F.R. § 121.105.

The "number of employees" is the average number of employees, including the employees of its domestic and foreign affiliates, based on numbers of employees for each of the pay periods for the preceding completed 12 calendar months.

"Employees" includes all individuals employed on a full-time, part-time, temporary, or other basis. Part-time and temporary employees are counted the same as full-time employees. If a concern has not been in business for 12 months, use the average number of employees for each of the pay periods it has been in business. 13 C.F.R. § 121.106.

Concerns are "affiliates" of each other when one concern directly or indirectly controls or has the power to control the other, or when a third party or parties controls or has the power to control both concerns. 13 C.F.R. § 121.103(a).

### **(3) Nonprofit organization:**

A university or other institution of higher education located in any country. § 1.27(a)(3)(ii)(A).

An organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a). Also included are such organizations located in a foreign country that would qualify if it were located in this country. § 1.27(a)(3)(ii)(B),(D).

A nonprofit scientific or educational organization qualified under a nonprofit organization statute



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of a U.S. state. Also included are such organizations located in a foreign country that would qualify if it were located in this country.  
§ 1.27(a)(3)(ii)(C),(D).

Please note that a license to the Government resulting from a rights determination under Executive Order 10096 does not constitute a license that would prohibit claiming Small Entity Status. Similarly, for small business concerns and nonprofit organizations, a license to a Federal agency resulting from a funding agreement with that agency under 35 U.S.C. § 202(c)(4) is not a license that would prohibit claiming Small Entity Status.  
§ 1.27(a)(4).

I hereby assert that I am empowered to sign on behalf of the party identified below ("Party"). Persons empowered to sign include an inventor him- or herself or an authorized officer of the assignee, where the assignee has at least an undivided part interest in the application or patent. § 1.27(c)(2).

I have made a determination of the Party's entitlement to Small Entity Status, including a determination that all parties holding rights in the invention qualify for Small Entity Status. § 1.27(f).

I hereby assert that the Party has not assigned, granted, conveyed or licensed--and is under no obligation under contract or law to do so--any rights in the invention to any other party that would not qualify as a Small Entity. If the rights in the invention held by the Party are not exclusive, each party having rights in the invention is listed below:

None

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Separate assertions of Small Entity Status should be obtained from each party having rights to the invention.

I hereby assert that the Party is entitled to be accorded Small Entity Status by the USPTO for the application or patent identified above. § 1.27(c)(1).

I understand that Small Entity Status must be newly determined when the issue fee and each maintenance fee is due. If there is any change resulting in loss of entitlement to Small Entity Status, I acknowledge the duty to file a notification to the USPTO in this application or patent before or upon paying the fee. § 1.27(g).

I understand that Small Entity Status must be separately established in any related application, including continuation, divisional, continuation-in-part, continued prosecution application or reissue application. § 1.27(c)(4).

I understand that any attempt to establish Small Entity Status improperly, deceptively or fraudulently will be considered a fraud practiced on the USPTO and may result in abandonment of

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Filed: 9 November 2001  
International Filing Date: 10 May 2000  
Page 5

the application or jeopardize the validity and enforceability of  
any resulting patent. § 1.27(h).

Signature: Linda S. Stevenson

Date: March 26, 2002

Name: Linda S. Stevenson

Title: Manager, Patent Prosecution

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Oakland, California 94607-5200